

REMARKS

Claims 1 and 21 are objected to. The Office states that "independent claim 1 contains multiple modifiers within a limitation rendering the content between the upper and lower cladding unclear." Claim 21 is stated to be unclear because it is dependent on claim 1.

Claim 1 has been amended to clearly recite the optical waveguide of the present application in structural terms. More specifically, claim 1 has been amended to recite the optical waveguide as comprising

- (a) a lower clad layer;
- (b) a core layer which forms an optical transmission region provided on the lower clad layer;
- (c) an upper clad layer provided on and surrounding the core layer; and
- (d) a stress moderating layer provided in at least one portion between the upper clad layer and the lower clad layer for moderating stress caused by shrinkage of the upper clad layer when formed.

It is believed that the amendment to claim 1 overcomes the objections of the Office. Removal of the objections to claims 1 and 21 is believed to be in order and is respectfully requested.

Claims 1-2, 5-6, 10, 13-16, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Ido et al. (U.S. Patent No. 6,229,949 B1) (hereinafter: "Ido").

This rejection appears to be related to the objection to claim 1. It appears that the Office is taking the position that the relationship of the various layers of the waveguide to each other is not clear. The Office states that because "the limitation [in claim 1] contains multiple modifiers" it is unclear what is between the lower and upper clad layer. (Action, page 3, lines 7-8 from the bottom of the page).

In Ido, the buffer layer is provided between a substrate and the lower clad layer. The waveguide of the present invention (including the embodiment shown in Fig. 2) in which the stress moderating layer is provided between the upper clad layer and the lower clad layer distinguishes over the waveguide of Ido. Ido does not disclose a stress moderating layer between an upper clad layer and a lower clad layer. Ido does not disclose every element of the present invention and, therefore, fails to anticipate the present application.

Removal of the 35 U.S.C. 102(b) rejection of the claims is also believed to be in order and is respectfully requested.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ido in view of Matsuno et al. (JP 2003-248130 A) (hereinafter: "Matsuno"). Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ido and Matsuno as applied to claim 3 above, and further in view of Gao et al. (U.S. Patent No. 6,917,749) (hereinafter: "Gao"). Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ido in view of Ohashi et al. (U.S. Application 2005/0265685) (hereinafter: "Ohashi").

These rejections depend on the propriety of the 35 U.S.C. § 102 rejection of claim 1. The waveguide of the present invention as recited in claim 1 is patentable under 35 U.S.C. § 102 for the reasons explained above. Therefore, claims 3, 4, 7 and 8, which recite a dependency on claim 1, are *prima facie* patentable.

Removal of the 35 U.S.C. 103(a) rejections of the claims is also believed to be in order and is respectfully requested.

As indicated in the Election of Species Requirement dated November 18, 2005, claim 1 is generic to all species of the present application. Claim 1 is in condition for allowance and, therefore, rejoinder of withdrawn claims 9, 11, 12, 17 to 20, 22 to 24 and 26 is believed to be in order and is respectfully requested.

The foregoing is believed to be a complete and proper response to the Office Action dated February 28, 2006, and is believed to

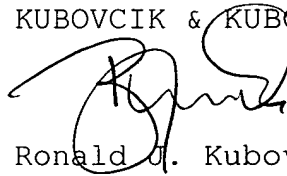
place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

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